

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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KNOLL, INC.,	:
	:
Plaintiff,	: 04 CIV. 8800 (DLC)
	: ECF CASE
	:
- v -	:
	:
ARTHUR GORDON ASSOCIATES,	: DEFENDANTS' NOTICE
<i>d/b/a</i> GORDON INTERNATIONAL,	: OF CONSOLIDATED
	: MOTION FOR SUMMARY
	: <u>JUDGMENT RE: FAIR USE</u>
Defendant.	:
-----X	
KNOLL, INC.,	:
	:
Plaintiff,	:
	:
- v -	: 04 CIV. 8801
	:
PALAZZETTI EXPRESS, INC.,	:
	:
Defendant.	:
-----X	
CASPRINI GRUPPO INDUSTRIALE S.p.A.,	:
	:
Plaintiff,	:
	:
- v -	: 04 CIV. 9787
	:
KNOLL, INC.,	:
	:
Defendant.	:
-----X	

Defendants Palazzetti Express, Inc. ("Palazzetti") and Arthur Gordon Associates, Inc. ("Gordon") and Declaratory Judgment Plaintiff and Counterclaim Defendant Casprini Gruppo Industriale S.p.A. ("Casprini"), through their

undersigned counsel, file this motion for summary judgment on their affirmative defense of "fair use"¹ and jointly ask the Court to dismiss Plaintiff's claims of trademark infringement, unfair competition and trademark dilution against them in the above-styled, consolidated civil action.

This case involves defendants' manufacturing and sales of furniture reproductions patterned after the designs of Ludwig Mies van der Rohe, namely, the Barcelona chair, the Barcelona stool, the Barcelona couch, the Barcelona table, and the flat Brno chair (hereinafter collectively referred to as the "Barcelona Collection"). Defendants assert that there is no genuine issue of fact that they do not use the furniture designs at issue **as trademarks**; rather, they use those furniture designs only in their primary, aesthetically-descriptive sense. Moreover, since there is no evidence that defendants have attempted to trade on Plaintiff's goodwill or have intended to create any consumer confusion, there is no genuine issue that defendants are acting, and have always acted, in good faith.

¹ The "fair use" affirmative defense was asserted in paragraphs 79 and 89 of Gordon and Palazzetti's Answer and Counterclaims respectively, and by Casprini at paragraph 74 of its Reply To [Knoll's] Counterclaims.

This motion is supported by the legal Memorandum, Affidavits, and Statement of Uncontested Facts filed herewith in accordance with both L.R. 7.1 and L.R. 56.1.

**PALAZZETTI EXPRESS, INC.
ARTHUR GORDON ASSOCIATES, INC.
CASPRINI GRUPPO INDUSTRIALE
S.p.A.**

Date: June 2, 2005

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Attorneys For Defendants

CERTIFICATE OF SERVICE

I, HEREBY CERTIFY that on this 2nd day of June, 2005 a true and correct copy of the foregoing ***DEFENDANTS' NOTICE OF CONSOLIDATED MOTION FOR SUMMARY JUDGMENT RE: FAIR USE*** was served by the following manner upon:

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